Texas Department of Insurance
Division of Workers' Compensation
Medical Fee Dispute Resolution, MS-48
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645
512-804-4000 telephone • 512-804-4811 fax • www.tdi.texas.gov

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name
Peter E Grays MD

Respondent Name
Liberty Insurance

MFDR Tracking Number
M4-15-1342-01

Carrier's Austin Representative
Box Number 01

MFDR Date Received
January 5, 2015

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "…an exception to pre authorization of these services should be waived as it was only indicated as necessary once in the operating room, I would of not of know prior to the surgical incision that this medical biologic product would be needed for adequate closure."

Amount in Dispute: $11,250.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "CPTs 13101, 13102, 64555, 95970, 14302, 15734, 44005, 15734, 14301 were not part of authorization. Therefore were denied as Pre-authorization was required, but not requested for this service per DWC Rule 134.600."

Response Submitted by: Liberty Mutual

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
May 8, 2014	Surgical Procedures	$11,250.00	$5,556.48

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.600 sets out the guidelines for prospective and concurrent review of health care services.
3. 28 Texas Administrative Code §134.203 sets out the reimbursement guidelines for professional medical services.
4. The services in dispute were reduced/denied by the respondent with the following reason codes:
   - X170 – Pre-authorization was required, but not requested for this service per DWC rule 134.600
   - 193 – Original payment decision is being maintained

Issues

1. Did the requestor support that an exception to prior authorization exists?
2. What is the applicable rule pertaining to reimbursement?
3. Is the requestor entitled to reimbursement?

Findings

1. Per 28 Texas Administrative Code §134.600 (c) The insurance carrier is liable for all reasonable and necessary medical costs relating to the health care: (1) listed in subsection (p) or (q) of this section only when the following situations occur: (A) an emergency, as defined in Chapter 133 of this title (relating to General Medical Provisions);" 28 Texas Administrative Code §133.2 (5) provides the definition, "Emergency--Either a medical or mental health emergency as follows: (A) a medical emergency is the sudden onset of a medical condition manifested by acute symptoms of sufficient severity, including severe pain, that the absence of immediate medical attention could reasonably be expected to result in: (i) placing the patient's health or bodily functions in serious jeopardy, or (ii) serious dysfunction of any body organ or part;" Review of the submitted medical record finds;
    a. Operative report, "…intraoperatively after removing the old mesh he had a large defect approximately 8 cm in the midline requiring component separations to allow for primary closure and the prosthetic mesh appear to be Ventralex ST, which was entangled with the bowel and had to be excised."

   The Division finds the definition of an emergency situation did present after the procedure began. Therefore, the services in dispute will be reviewed per applicable rules and fee guidelines.
2. Per 28 Texas Administrative Code §134.203 (c) states in pertinent part, "To determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications. (1) For service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Radiology, Pathology, Anesthesia, and Surgery when performed in an office setting, the established conversion factor to be applied is (date of service yearly conversion factor). For Surgery when performed in a facility setting, the established conversion factor to be applied is (date of service yearly conversion factor).

Date of Service	Submitted Code	Submitted Charge	Maximum allowable reimbursement (MAR) (TDI-DWC Conversion Factor / Medicare Conversion Factor) x Facility Price = MAR
May 8, 2014	49566	2500.00	Subject to multiple procedure discounts 952.97 x 50% = $476.49 (69.98/ 35.8228) x 476.49 = $930.83
May 8, 2014	11005	1500.00	(69.98/ 35.8228) x 793.77 = $1,550.63
May 8, 2014	11008	1000.00	(69.98/ 35.8228) x 279.20 = $545.42
May 8, 2014	49568	500.00	(69.98/ 35.8228) x 271.95 = $531.26
May 8, 2014	15734	3500.00	(69.98/ 35.8228) x 1341.28 = $2,620.20
May 8, 2014	14301	1500.00	Subject to multiple procedure discounts 899.67 x 50% = $449.84 (69.98/ 35.8228) x 449.84 = $878.76
May 8, 2014	14302	1000.00	(69.98/ 35.8228) x 225.95 = $441.39
May 8, 2014	15734	3500.00	(69.98/ 35.8228) x 1341.28 = $2,620.20
May 8, 2014	15273	750.00	(69.98/ 35.8228) x 206.47 = $403.34
May 8, 2014	15274	500.00	(69.98/ 35.8228) x 46.52 = $90.88
May 8, 2014	15777	750.00	Per CCI edits procedure code 15777 has a conflict with procedure code 15274, support of 59 modifier not found, no separate payment recommended
May 8, 2014	44005	2000.00	Per CCI edits procedure code 44005 has a conflict with procedure code 49566 a modifier is not allowed, no separate payment recommended
May 8, 2014	13101	750.00	Per CCI edits procedure code 13101 has a conflict with procedure code 15734, support of 59 modifier not found, no separate payment recommended
May 8, 2014	13102	500.00	Per CCI edits procedure code 13102 has a conflict with procedure code 15734, support of 59 modifier not found, no separate payment recommended
May 8, 2014	64555	750.00	Documentation does not support emergency, no separate payment recommended
May 8, 2014	95970	250.00	(69.98/ 35.8228) x 24.34 = $47.55
	Total		$10,660.46

3. The total allowable reimbursement is $10,660.46. The Carrier previously paid 5,103.98. The remaining balance of $5,556.48. This amount is due to the requestor.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is $5,556.48.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of $5,556.48 plus applicable accrued interest per 28 Texas Administrative Code §134.130 due within 30 days of receipt of this Order.

Authorized Signature

Signature	Medical Fee Dispute Resolution Officer	April 23, 2015 Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, *37 Texas Register 3833*, **applicable to disputes filed on or after June 1, 2012**.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.